

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

PAULETTE WEGNER,

Plaintiff,

ORDER

v.

02-C-0329-C

JO ANNE B. BARNHART, Commissioner,
Social Security Administration,

Defendant.

Plaintiff Paulette Wegner has filed objections to the report and recommendation entered herein by the United States Magistrate Judge on May 12, 2003, in which the magistrate judge recommended affirmance of the defendant commissioner's denial of plaintiff's application for disability insurance benefits. Plaintiff's objections are lengthy and detailed but they do nothing more than cover the same ground the magistrate judge went over with painstaking care in his report. Plaintiff has been making the same arguments since she first filed a challenge to the denial of her application in 1997. (This earlier case was reversed and remanded to defendant to undertake a fresh review of plaintiff's evidence and to consider certain new evidence; plaintiff brought this suit to challenge the 1999 decision denying plaintiff's application for the second time.)

Plaintiff's situation is complex and problematic. The various professionals that have worked with her have had difficulty determining how much of her refusal to return to work is the result of a demonstrable mental impairment that renders her disabled within the meaning of the Social Security Act and how much derives from a voluntary preference to remain at home, enjoying a leisurely schedule that allows her time to spend with her family. The administrative law judge was not convinced that plaintiff was disabled from working at any substantial gainful activity. In his view, the record did not support such a conclusion but showed in fact that plaintiff was unwilling to return to work. For reasons that the magistrate judge explored at length, the administrative law judge's conclusion was a reasonable one, supported by the credible evidence in the record. As the magistrate judge pointed out, it was not the only conclusion the administrative law judge could have reached from the evidence in the record, but it is one that stands up to critical examination.

It is indisputable that plaintiff suffers from some serious mental and emotional problems. The administrative law judge's findings confirm this. What is disputed is whether those problems prevent her from performing any substantial gainful activity. The record contains credible evidence sufficient to support a conclusion that they do not. Therefore, I must adopt the magistrate judge's recommendation and deny plaintiff's challenge to defendant's adverse determination of her claim for disability insurance benefits.

ORDER

IT IS ORDERED that the report and recommendation of the United States Magistrate Judge is ADOPTED by the court. FURTHER, IT IS ORDERED that defendant Jo Anne B. Barnhart's denial of plaintiff Paulette Wegner's claim for disability insurance benefits is AFFIRMED. The clerk of court is directed to enter judgment for defendant and close the file.

Entered this 14th day of July, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge